WP(C) 2458/2006

BEFORE

THE HON'BLE MR JUSTICE RANJAN GOGOI

Heard Mr.J.Handique, learned counsel for the petitioner and Mr.B.J.Ghosh, learned Govt. Advocate, Assam.

The petitioner is the owner of a public carrier (Bus) having registration No. AS 07 /4488. According to the petitioner, he had purchased the said vehicle in the year 1998. On 19.10.2000, the said vehicle of the petitioner was requisitioned under an order of the Sub divisional Magistrate, Dhemaji. The petitioner has stated and averred that immediately after the vehicle was requisitioned, on the same day, it was sent to Guwahati ; enroute the vehicle had met with an accident as a result of which the vehicle had sufferred major damage. After the vehicle was handed over to the petitioner, the petitioner had spent a sum of Rs. 68,320.00 to repair the vehicle and to make it road worthy. Accordingly, the petitioner had submitted an application to the Deputy Commissioner, Dhemaji for payment of the said amount along with the requisition compensation amounting to Rs. 56,580.00. As the Deputy Commissioner, Dhemaji and other

authorities of the State have failed to take any action, the present writ petition has been filed seeking appropriate directions from the Court.

It must be noticed, at this stage, that the petitioner has enclosed, as Annexure D to the wit petition, a report of the Motor Vehicle Inspector with regard to the extent of damage suffered by the vehicle on account of the accident.

No return has been filed on behalf of the respondents. No instructions, either, have been communicated to the learned Govt. Advocate to enable him to apprise the Court with regard to the stand of the Respondents. In such circumstances, the Court will have to proceed on the basis of the uncontroverted statements made in the writ petition.

Proceeding thus, what this court finds is that the vehicle belonging to the petitioner was requisitioned on 19.10.200 and while under requisition it had sufferred damage in an accident, the details of m which had been inspected by the Motor Vehicle Inspector who had submitted a report of such inspection (Annexure D to the writ petition.).

Even if the Court is to discount the claim of compensation for damage as quantified by the petitioner in his written representation to the Deputy Commissioner, Dhemaji, what can not escape the notice of the Court is that the vehicle had suffered certain damages, the extent of which, on a plain reading, appear to be substantial. If the vehicle of the petitioner was damaged while under requisition, naturally it will be the obligation of the requisitioning to compensate the petitioner for the loss sustained by him on account of such damage.

In the above facts, I am of the view that this writ petition should be closed by directing the Deputy Commissioner, Dhemaji, to have the extent of the damage sufferred by the petitioner's vehicle quantified in terms of money. Such quantification naturally will be made on the basis of the report of the Motor Vehicles Inspector and after giving the petitioner an opportunity. Thereafter, such amount as may be quantified, on account of damages suffered by the vehicle, will be reimbursed to the petitioner by the Deputy Commissioner, Dhemaji. The Deputy Commissioner, Dhemaji will also verify, if any amount is due to the petitioner on account of requisition compensation for the vehicle in question. On such verification whatever may be found to be due shall be paid to the petitioner. It is made clear that the directions of this Court, as aforesaid, will be complied with by the Deputy Commissioner, Dhemaji within 2 months from the

date of receipt of a certified copy of this order, failing which such amount as may be due to the petitioner will carry interest @ 9% per annum .

Writ petition consequently is allowed to the extent indicated above.